

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**HARTFORD FIRE INSURANCE
COMPANY and HARTFORD CASUALTY
INSURANCE COMPANY**

Plaintiffs,

v.

**INTERDIGITAL COMMUNICATIONS
CORPORATION and INTERDIGITAL
TECHNOLOGY CORPORATION**

Defendants.

CIVIL ACTION NO. 06-cv-422-UNA

JURY TRIAL DEMANDED

ORDER

AND NOW, on this _____ of _____, 2008, upon consideration of the Motion of Hartford Fire Insurance Company and Hartford Casualty Insurance Company (collectively, "Hartford") for Leave to File a Cross-Motion for Summary Judgment and all papers in support thereof and in opposition thereto, it is hereby ORDERED that Hartford's Motion for Leave is GRANTED. Hartford's proposed Cross-Motion for Summary Judgment and supporting papers shall be filed and deemed served as of the date of this Order.

BY THE COURT:

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**HARTFORD FIRE INSURANCE
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Plaintiffs,

v.

**INTERDIGITAL COMMUNICATIONS
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Defendants.

CIVIL ACTION NO. 06-cv-422-UNA

JURY TRIAL DEMANDED

PUBLIC VERSION

**HARTFORD FIRE INSURANCE COMPANY AND HARTFORD CASUALTY
INSURANCE COMPANY'S MOTION FOR LEAVE
TO FILE CROSS-MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and the Court's August 2, 2007 revised Scheduling Order, and in light of this Court's November 29, 2007 Memorandum Order (D.I. 76) granting Defendants' Motion for Leave to File Motion for Partial Summary Judgment (D.I. 58), Hartford Fire Insurance Company and Hartford Casualty Insurance Company (collectively, "Hartford") request leave of Court to file their proposed Cross-Motion for Summary Judgment and their Brief and Appendix in support thereof, filed herewith as Exhibits A, B and C. In support hereof, Hartford states:

1. Having moved for and received leave of this Court, InterDigital has filed a Motion for Partial Summary Judgment seeking, *inter alia*, a determination that Hartford has a duty to defend the underlying *Nokia Corp., et al. v. InterDigital Communications Corp., et al.* litigation (the "*Nokia* action") (D.I. 58 and D.I. 59).

2. Since the issue of whether Hartford had or has any duty to defend the original or the Amended Complaint in the *Nokia* action is presently before this Court, Hartford seeks leave to file a Cross-Motion for Summary Judgment concerning the same duty to defend issues raised by InterDigital's pending Motion.

3. Hartford's proposed Cross-Motion for Summary Judgment relies upon the *same* Brief and Appendix filed by Hartford in opposition to InterDigital's Motion for Partial Summary Judgment (which are being filed concurrently with this Motion). *See* Exhibits B and C hereto.

4. As explained in Hartford's Brief in support of its proposed Cross-Motion for Summary Judgment, Hartford has no duty to defend InterDigital against either the original Complaint or the Amended Complaint in the *Nokia* action.

5. Although Hartford opposed InterDigital's Motion for Leave to File Motion for Partial Summary Judgment (D.I. 68) on the grounds, *inter alia*, that additional discovery is needed before this Court may adjudicate whether or not Hartford has a duty to defend and while Hartford continues to maintain herein, and in its opposition to InterDigital's Motion for Partial Summary Judgment, that further discovery is required before this Court can determine whether or not there is a duty to defend the *Nokia* action, Hartford requests leave of Court to file its Cross-Motion for Summary Judgment at this time in light of the Court's prior Order allowing the filing of InterDigital's Motion for Partial Summary Judgment Concerning Liability.

6. To the extent the Court is willing to entertain InterDigital's Motion for Partial Summary Judgment concerning the duty to defend, this Court should also consider Hartford's Cross-Motion for Summary Judgment -- seeking a declaration that Hartford has no duty to defend either the original Complaint or the Amended Complaint in *Nokia* Action.

7. Accordingly, Hartford requests that the Court grant Hartford leave to file its proposed Cross-Motion for Summary Judgment, especially given that this Court has already permitted InterDigital to file a Motion for Partial Summary Judgment concerning the same issue.

8. Pursuant to Local Rule 7.1.1, counsel for Hartford contacted counsel for InterDigital regarding this Motion. InterDigital has advised that it would not oppose Hartford's Motion for Leave provided that Hartford agree to forego any right to file a reply brief. Hartford has not so agreed as it is entitled to a reply brief. InterDigital thus has not consented to this motion.

Respectfully submitted,

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Sealed Version
Dated: January 8, 2008

Public Version
Dated: January 11, 2008

CERTIFICATE OF SERVICE

I, James S. Yoder, Esquire, hereby certify that I have caused a true and correct copy of the Public Version of Hartford Fire Insurance Company and Hartford Casualty Insurance Company's Motion for Leave to File Cross-Motion for Summary Judgment, and the exhibits thereto, to be filed electronically and thereby served, this date, upon the following:

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Date: January 11, 2008